



Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Required Report - public distribution

Date: 3/17/2003

GAIN Report #NI3006

Nigeria

Food and Agricultural Import Regulations and Standards

Country Report

2003

Approved by:

Jamie Rothschild

U.S. Consulate, Lagos

Prepared by:

Ali Michael David

Report Highlights:

Updated on March 15, 2003.

Sections updated are I, VI, IX and Appendix I

Includes PSD changes: No
Includes Trade Matrix: No
Annual Report
Lagos [NI1], NI

"This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Lagos, Nigeria for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since it's preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY."

SECTION I. FOOD LAWS

The National Agency for Food and Drug Administration and Control (NAFDAC) is the Government of Nigeria's (GON) regulatory body responsible for food product manufacturing, importation, advertisement and distribution in Nigeria. Under the provisions of GON Decree 19 of 1993 and its accompanying guidelines, no food item may be imported, advertized, sold or distributed in Nigeria unless it has been registered by NAFDAC. NAFDAC was established to protect and promote public health by ensuring the wholesomeness, quality and safety of food and drugs consumed in Nigeria. NAFDAC defines food as any "article manufactured, processed, packaged, sold or advertized for use as food or drink for human consumption, chewing gum and any other ingredient which may be mixed with food for any purpose whatsoever." Over the past two years, the new management of NAFDAC has increased surveillance to curb widespread adulteration of food products. The main strategy employed by the agency for the enforcement of Nigeria's food laws is the process of product registration. Contravention of the provisions of existing food laws is subject to prosecution and punishment as specified in the code. In recent years, NAFDAC appears to have become more active and stringent in enforcing existing food laws, but primarily to protect local producers. In theory, any food item not registered with NAFDAC, is not legally importable. In practice, many processed foods routinely enter Nigeria through neighboring countries without having gone through the registration process. This category includes a significant amount of undocumented imports of U.S. foods.

SECTION II. LABELING REQUIREMENTS

A. General Requirements

NAFDAC regulations require food labeling to be informative and accurate. Following are NAFDAC's minimum labeling requirements:

- ' A product's brand name or common name must appear in bold letters.
- ' A complete "location" address of the manufacturer showing country of origin, must be provided on the product label.
- ' The production "batch" number, date of manufacture and best use before date.
- ' Net content, specifying essential ingredients in metric weight for solids, semi-solids and aerosols, and metric volume for liquids.
- ' Ingredients must be listed by their common names in order of their prominence by weight unless the food is "standardized," in which case, the label must include only

- those ingredients which the standard makes optional.
- ' Food additives and colors must be declared on the label. Spices, flavors and colors may be listed as such, without naming the specific material, but any artificial color or flavor should be identified as such.
- ' Labeling should be in English. If it is in another language, an English translation must be shown on the label or package insert (where applicable).
- ' If the standard U.S. label addresses the above-mentioned items, no additional labeling is necessary for imports of U.S. food items. Stick-on labels meeting NAFDAC requirements are permitted. Foreign labels must be adhered prior to product arrival at the Nigerian port of entry. Sample-size products or institutional packed products have no special labeling requirements.

B. Requirements Specific to Nutritional Labeling

- ' Foods for special dietary uses with claims of disease prevention, treatment, mitigation, cure or diagnosis must comply with NAFDAC's guidelines for registration of drugs and be registered as medicinal products. Labels must contain directions for safe usage.
- ' Additional nutritional labeling information is voluntary. The Standard U.S. nutritional fact panel is accepted by NAFDAC.

SECTION III. PACKAGING AND CONTAINER REGULATIONS

- ' NAFDAC regulations are not specific on packaging. No specific waste disposal laws or product recycling regulations impact on imported food products and NAFDAC does not impose any specific restrictions on packaging materials.
- ' Nigerian importers, however, often express a marked packaging preference for certain high-value food products (HVP), namely:
 - ' Relatively small-sized products, prepared and packaged for one-time use.
 - ' Products that can be shipped in bulk and re-packaged locally.
 - ' Perishable food products that undergo processing/packaging treatment to achieve an extended shelf life without refrigeration.

SECTION IV. FOOD ADDITIVE REGULATIONS

Nigerian food additive regulations are specified in the GON's Decree 15 of 1993. NAFDAC has not developed a positive additive list. A very short negative (prohibited) list does exist. Specific food additive regulations of NAFDAC tend to focus on the usage of non nutritive sweeteners and on ingredients in wheat flour products. The food additive and contaminant regulations of Codex Alimentarius Commission are applied by NAFDAC in its assessment of food safety.

- ' No person may manufacture, import, advertise, sell or present any food item or beverage containing a non nutritive sweetener for human consumption unless the product is "specified for special dietary usage."
- ' Non nutritive sweeteners are not permitted in any food or beverage to be consumed by

infants or children. Non nutritive sweeteners, including saccharin and cyclamates, may be used in low-calorie, dietary foods/beverages.

- ' Potassium bromate as a bread improver is not permitted. At present, NAFDAC requires wheat flour produced in Nigeria to be fortified with vitamin A.

Any person or company found to be in violation of any provision of Decree 15 will be subject to a fine of 100,000 Naira (about \$1,000) or imprisonment for a period of one year or both.

SECTION V. PESTICIDES AND OTHER CONTAMINANTS

The pesticide residue and mycotoxin standards of the Codex Alimentarius Commission are applied by NAFDAC in its assessment of food safety. All food products must have a certificate of analysis which demonstrates to NAFDAC's satisfaction that the item is free of pesticide and radioactive contaminants. NAFDAC reserves the right to subject any domestic or imported product to its own analysis to determine freedom of contamination. NAFDAC officials routinely subject imported foods to inspection and analysis at the port of entry and at the retail level. Any product found to be contaminated is subject to seizure and destruction by NAFDAC. Additionally, information on approved pesticides may be obtained from NAFDAC (see contact information at end of this report).

SECTION VI. OTHER REGULATIONS AND REQUIREMENTS

A. General

The following regulations govern imported food products:

- ' All imported food products must be registered with NAFDAC to be legally importable.
- ' An application form duly completed by the local agent (import) for the registration of each regulated product.
- ' Foreign manufacturers, must be represented in Nigeria by a duly registered company or individual with the capacity to affect a product recall if necessary.
- ' NAFDAC considers the local importer to be acting as a representative of the foreign manufacturer. In practice, it is the local representative that handles/coordinates the registration process for imported foods.
- ' The Nigerian importer/distributor must file evidence of a Power of Attorney from the manufacturer which authorizes him to represent his principal on all matters relating to the imported product. The original Power of Attorney must be notarized in the country of origin and submitted to NAFDAC.
- ' Fifteen product samples (twenty in the case of dairy products) must be provided to NAFDAC for physical/laboratory analysis and vetting which takes about four to eight weeks. Samples may be shipped by DHL or other express mail and are not subject to standard food import regulations.
- ' A certificate of manufacture and a certificate of free sale, issued by a competent health authority, a product license or evidence of product registration in the country of origin,

and a certificate of laboratory analysis performed in the country of origin must be provided to complete NAFDAC's product registration process.

NAFDAC registration involves a review of the manufacturing process, an assessment of food safety and quality, and confirmation of compliance with NAFDAC's labeling regulations. The process of registration now involves personal visits by officials of the agency to factory locations in the respective countries of origin and laboratory analysis of product samples to determine that the product is fit for human consumption. The registration of any food product with NAFDAC is a very slow system and could take between 1-2 months from the date samples are submitted for laboratory tests to be completed. U.S. manufacturers/exporters wishing to sell their food products in Nigeria also should be aware of relevant requirements and regulations of the Nigerian Customs Service mentioned in section IX of this report.

NAFDAC's has markedly increased its fee for registration, vetting and documentation for all imports. The fee for registering each product is currently 750,000 naira (about \$6,000), up from 10,000 naira (about \$100) last year. Additionally, NAFDAC requires that:

- ' no applicant will be allowed to register a food product in more than one name.
- ' where different flavors of the same food are produced, each flavor will have to be registered separately.
- ' Major supermarket operators who stock a wide variety of products were granted concession to import mixed container loads of high value products (HVP) under NAFDAC's global listing of supermarkets (GLS) food items. Items listed under the GLS include all items regulated by NAFDAC sold in supermarkets and other specialties required by hotels, fast food chains and international organizations. Supermarkets participating in the program will be routinely inspected by the agency after submission of application. The annual tariff for group product registration is categorized as follows:

Number of Items	Global Annual Registration Tariff
Less than 500	750,000 Naira
Less than 1000	1,000,000 Naira
Greater than 1000	2,000,000 Naira

The license is valid for product importation, display and sale. In addition to the fees, normal port handling charges will be paid for products imported into the country. Products imported under the GLS must meet the labeling and other requirements listed in sections II and VI. For products imported under GLS, only a representative sample will be subjected to laboratory tests. Importers of food products in Nigeria are coping with these new requirements, as it significantly increases product cost.

B. Prepackaged Food Products

The following guidelines govern the sale of prepackaged food products in Nigeria:

- ' No person may sell a prepackaged food unless a label has been affixed thereto.

- ' A prepackaged food label must not be presented in a manner which is false, deceptive or likely to create an erroneous impression regarding its character, quality, quantity and origin.
- ' A complete list of ingredients used in preparing the food item will be declared on the label in a descending order of their proportion. A date of minimum durability must be identified on the label along with any special storage conditions.
- ' Prepackaged food items which have been treated with ionizing radiation must be so declared and the nature of the ionizing radiation will be stated on the label.
- ' NAFDAC must be provided evidence of product registration by a competent health authority in the country of manufacture. This can be done by submitting a copy of the product license or certificate of registration.
- ' NAFDAC must be provided evidence from a competent health authority from the country of product origin that the sale of the product does not contravene the food laws of that country. This evidence usually takes the form of a Free Sale Certificate.
- ' Any nutritional claim must be justified on the product's label. Nutritional labeling is mandatory for any prepackaged food item for which a nutrition claim is made by the manufacturer.
- ' NAFDAC officials routinely visit retail outlets in Nigeria to confirm that all imported food products are in compliance with local regulations.

NAFDAC may prohibit the importation, distribution, sale or use of any prepackaged food item, temporarily or permanently as well as impose a fine of 50,000 Naira (\$450) against any product failing to comply with the above regulations.

C. Advertisement Requirements

- Advertised food products must demonstrate to the GON that the products are legally registered with NAFDAC.
- NAFDAC must approve all advertisement/promotional materials prior to utilization.
- An application for advertisement must be submitted to NAFDAC for its approval. This approval process is in addition to the Certificate of Registration issued by NAFDAC which authorizes importation and sale in Nigeria.

SECTION VIII. COPYRIGHT AND TRADEMARK LAWS

Nigeria is a member of the World Intellectual Property Organization (WIPO) and a signatory to the Universal Copyright Convention (UCC) and other major International Agreements on Intellectual Property Rights (IPR). Despite active participation in international conventions and an apparent interest in IPR issues, GON efforts are largely ineffectual in curtailing widespread copyright violations.

The Nigerian Standards Organization is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent conveys the exclusive right to make, import, sell, use a

product, or to apply a patented process. The Trademarks Act of 1965 governs the registration of trademarks. Registering a trademark grants the holder the exclusive right to use the registered mark for a specific product or class of products.

Statutes which govern IPR in Nigeria include the Copyright Act of 1988 (amended in 1992). The copyright decree of 1988 which is based on WIPO standards and U.S. copyright law, makes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner a criminal offense. Enforcement of the 1988 law is not common. The expense and time required to pursue a copyright infringement case through the Nigerian judicial system often deters prosecution of such cases.

SECTION IX. IMPORT PROCEDURES

A. Pre-shipment Inspection

The GON planned to implement a 100 percent destination inspection regime for all imports. However, to date, it has not been activated. Therefore, pre-shipment inspection (PSI) is still being performed by the GON's agent at the point of origin. In 2001, this decision was based on the GON's plan to try to reduce/eliminate tariff avoidance by importers practicing product concealment, incorrect product classification, under declaration and under invoicing of shipments, and bribery of customs and port officials. Tariff avoidance schemes had become normal business practices for importers under the pre-shipment inspection regime. Pre-shipment Inspection (PSI) by approved Agents of the GON for goods entering Nigeria remains in effect. A report of findings is issued by the authorized agent prior to shipment. This report validates the commodity being shipped and its valuation for import duty purposes. The exporter arranges for the pre-shipment inspection. (Imports are assessed a one-percent surcharge to cover the cost of pre-shipment inspection).

The pre-shipment inspection agent for all U.S. goods destined to Nigeria is:

Swede Control/Intertek Services International
3741 Red Bluff Road, Pasadena, Texas 77503
P. O. Box 5666, Pasadena, Texas 77503
Tel.: (713) 475-2082
Fax: (713) 475-2083

The issuance of a "Clean Report of Finding" (CFR) and an "Import Duty Report" (IDR) by the designated agent conducting the pre-shipment inspection is mandatory for all imports. Swede Control/Intertek must forward copies of the IDR directly to the importer's local bank and to the Nigeria Customs Service.

B. Import Documentation/Procedures

The importer's bank issues a certified check to the Federal Government's Import Duty Account for payment of the import tariff. This payment must be completed before the original IDR and other necessary shipping documents are released by the Nigerian Customs Service (NCS) to the

importer who may now initiate the process of clearing his goods.

Import duty rates for high-value food products (HVP) generally range from 30 percent to 100 percent. All HVP imports are assessed a 5 percent Value Added Tax, a port surcharge equivalent to 7 percent of the duty amount and a Customs Service inspection service charge equal to 1 percent of the duty amount.

The Nigerian Customs Service is implementing its Automated System of Custom Data (ASCUDA) to expedite clearance of good through the ports. To date, however, port efficiency has not been significantly altered by this program. Although the GON has the set goal of achieving 48 hours of completing port clearance for imported products, in general, most import shipments currently take between 1 to 2 weeks.

The GON has returned to using its tariff policy to restrict imports after pursuing on average a relatively more liberal policy over the last decade. The GON has specifically stated this is to protect Nigeria's domestic industry. When import bans exist or import duty rates are judged to be excessive, food items routinely enter Nigeria through neighboring country ports as undocumented trade.

The Nigerian importer must obtain a 'Form M' which is the Government's document needed to process applications for foreign exchange and is utilized by the GON for maintaining trade statistics. Three copies of the Form M are sent to Swede Control/Intertek Services International, and one each to the importer's bank, the Nigerian Customs Service, and the Nigerian National Maritime Authority. The U.S. exporter sends a signed pro forma invoice--showing unit prices, total cost and freight--to the importer who attaches this document to his Form M. The local bank uses the Form M to bid on dollars from the Central Bank on behalf of the importer. Once successfully obtained, the local bank makes payment to the exporter through a letter of credit. It should be noted that opening letters of credit in Nigeria often is a time-consuming and expensive endeavor. Many Nigerian importers often arrange payment for their imported food items through Interbank wire transfers. This avoids the Form M and central bank bidding process for dollars.

Many U.S. exporters to Nigeria insist on payment terms involving confirmed, irrevocable letters of credit opened by Nigerian banks with correspondent banks in the United States. This guarantees payment. U.S. exporters may wish to contact the Agricultural Affairs Office of USDA in Lagos for assistance in locating reputable representatives and/or importers for their products.

POST CONTACT ADDRESS FOR FURTHER INFORMATION

Agricultural Affairs Office
U.S. Consulate General
2, Walter Carrington Crescent
Victoria Island, Lagos, Nigeria
Tel. / Fax #: 234-1-261-3926, 775 0830

e-mail: aglagos@fas.usda.gov
web site: <http://www.fas.usda.gov>

APPENDIX I. GOVERNMENT REGULATORY AGENCY CONTACTS

1. Dr. (Mrs.) Dora N. Akunyili
Director General
National Agency for Food and Drug Administration and Control
Federal Ministry of Health
Plot 2032, Olusegun Obasanjo Way
Zone 7, Wuse District
Abuja, Nigeria
Tel. : 234-9-5240996, 5240994
Fax : 234-1-5240994
E-mail : nafdac.lagos@alpha.linkserve.com

2. Dr. J.F. Eniojukan
Director, Registration & Regulatory Affairs
National Agency for Food and Drug Administration and Control
Federal Ministry of Health
Federal Secretariat Complex
Phase 2, 5th Floor
Ikoyi
Lagos, Nigeria
Tel : 234-1-2694568
E-mail : nafdac.lagos@alpha.linkserve.com